

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF LOUISIANA
SHREVEPORT DIVISION

LORENZO DAVILA, ET AL

CIVIL ACTION NO. 18-cv-1487

VERSUS

JUDGE FOOTE

FCA US, LLC, ET AL

MAGISTRATE JUDGE HORNSBY

MEMORANDUM ORDER

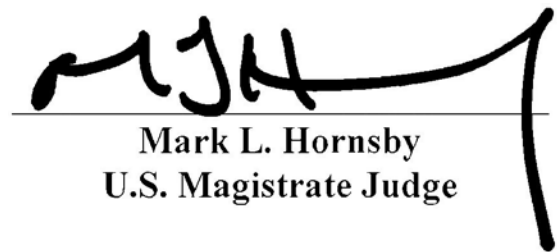
Zurich American Insurance Company removed this case based on an assertion of diversity jurisdiction that relies upon a plea of improper joinder with respect to several defendants. The court is obligated to determine subject matter jurisdiction, including whether a party is improperly joined, on its own initiative if a party does not raise it. Gasch v. Hartford Acc & Indem. Co. 491 F.3rd 278, 281 (5th Cir. 2007).

The issue of improper joinder goes to subject matter jurisdiction, so the deadline for filing a motion to remand on this issue is not subject to the 30-day statutory period. Considering the number of defendants at issue and the Thanksgiving holiday, plaintiffs are allowed until **January 9, 2019** to file a motion to remand, supported by a memorandum, if they contest the assertion that the non-diverse defendants were improperly joined. Of course, if the plaintiffs wish to assert procedural defects in the removal, they must do so by filing a motion to remand within the statutory 30-day window (which the court cannot extend).

If the plaintiffs file a motion to remand that contests the improper joinder pleas, the motion will be noticed for briefing so that Zurich can respond and attempt to meet its

burden on the improper joinder issues. If the plaintiffs do not timely file a motion to remand and challenge the improper joinder pleas, the court will consider the plaintiffs to concede the point, the several defendants said to be improperly joined will be dismissed, and the case will proceed toward a scheduling conference after all defendants file an answer.

THUS DONE AND SIGNED in Shreveport, Louisiana, this 20th day of November, 2018.



Mark L. Hornsby
U.S. Magistrate Judge